

**AGREEMENT FOR SERVICES #574-S1211  
MICROENTERPRISE TECHNICAL ASSISTANCE SERVICES**

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**THIS AGREEMENT** made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and Los Rios Community College District, Northeastern California Small Business Development Center, political subdivision of the State of California, duly qualified to conduct business in the State of California (hereinafter referred to as "Consultant");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a Consultant to provide services to qualified applicants under the County's Business/Microenterprise Assistance Program funded by the Community Development Block Grant (hereinafter referred to as "CDBG") 09-EDEF-6547.

**WHEREAS**, Consultant has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, State and local laws; and

**WHEREAS**, County has determined that the provision of these services provided by Consultant is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Consultants as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

**NOW, THEREFORE**, County and Consultant mutually agree as follows:

**ARTICLE I**

**Scope of Services:** Consultant agrees to furnish the personnel and equipment necessary to provide services listed below.

Consultant will provide services to individuals and businesses under the County Business/Microenterprise Assistance Program, Microenterprise Technical Assistance Program, as described in Agreement 09-EDEF-6547 between County and State (Exhibit A) and the El Dorado County Business/Microenterprise Assistance Program Guidelines (Exhibit B). The County's grant application forms part of the Agreement and describes the County's approved program. Consultant shall conduct program activities in conformance with the County's approved program and applicable State and federal law.

### **Microenterprise Technical Assistance Program (TAP) Services**

The Consultant shall provide the services described in the program guidelines (Exhibit B). A summary of the Consultant's role is described below. All meetings with potential applicants, County staff, potential lenders, etc. shall take place in El Dorado County, unless otherwise specified by County.

### **TAP Program Development and Delivery.**

Within 30 days from execution of contract, Consultant will develop and present to County a Technical Assistance and Training Program for Microenterprises in accordance with TAP Guidelines. (See Exhibit B, Microenterprise Technical Assistance Program Guidelines.)

### **Program Structure:**

- Consultant will provide up to three workshop series enhanced by one-on-one consulting in separate regions within El Dorado County. Each workshop series will be conducted over a consecutive 12-week period. Each workshop will be three hours in length and held one day per week. All program participants will receive a minimum of 10 hours of one-on-one consulting during and after 12 weeks of workshop instruction.
- Program participants will have at their timely disposal professionally trained consultants that receive Small Business Administration (SBA) and America's Small Business Development Center (ASBDC) approved training annually. Each 12-week workshop series will be held face-to-face in three separate locations: Placerville, El Dorado Hills/Cameron Park and the South Lake Tahoe Basin. Each series of workshops will have a targeted minimum of eight (24 total program). The target number of graduates for each workshop series is four (12 total program). All workshop attendees will receive one-on-one consulting.

### **Program Activities and Content**

- Participants will receive a preliminary and post business skills assessment in the areas of management, finance and technology. The skills assessment will assist in program delivery and placing participants with the appropriate one-on-one consultant(s).
- All participants receiving one-on-one consulting will receive a detailed demographic report targeting their business and industry; the report will assist them in writing a comprehensive business plan.
- Key aspects of this one-on-one training include, but are not limited to:

- 1. One-on-One Consulting: The One-on-one consulting will be provided as an exclusive priority to program participants, using dedicated consultants, who are available to work within the timelines of the microenterprise training program approved by the County.
  2. Skill Building: The one-on-one consulting is designed to teach necessary business skills in a methodical and logical order, building upon a previous skill learned. Hewlett Packard (HP) training materials will be used to cover Marketing, Finance, Operations, and Management.
  3. Propriety Online Resources: Consultant will provide propriety online training materials to each student, including but not limited to demographic information used for developing a market strategy, and the computer program "Profit Sense."
  4. Discounts: Deep discounts on Quickbooks for students will be available.
  5. CDBG Loan Application Assistance: If a student opts to apply for a loan through the loan program, the Consultant will assist in completing a CDBG loan application packet.
- Workshop training will consist of topics (list below) outlined in the RFP.
  1. Workshops will consist of open communication, lecture, hands-on activities and short presentations by participants.
  2. Workshops will focus on writing a comprehensive business plan and completing financial projections to support business feasibility.
  3. Materials from "*Roadmap to Entrepreneurial Success: A Business Planning Guide*©" will be utilized in all workshops.
  4. Topics listed below will be used as a training guide. They are:
    - Skills Entrepreneurs Need: What it Takes to Survive in Business (Pre Assessment)
    - Deciding on a Business
    - Business Plan: Your Roadmap to Success
    - Communication Tools and Organization
    - Marketing Analysis
    - Marketing Strategy
    - Management Skills
    - Operations: Running the Business
    - Licenses, Permits, Business Names and Insurance
    - Keeping the Books -Accounting and Cash Flow
    - How to Finance Your Business- What Lenders Want to See
    - Location and Opening Your Business
    - Tools to Forecast Business Needs and Sound Cash Management
    - Post Assessment
- Business support services may be provided to CDBG microenterprise-eligible individuals or businesses who are not enrolled in the workshop series but who may benefit from individual topics listed above to be used as a training guide. Business support clients may receive up to 10 hours of one-on-one consulting, or more hours upon written authorization in advance from the County.

### **TAP Reporting and Administration.**

- Perform marketing activities to identify potential program participants.
- Screen applicants to verify eligibility criteria for the TAP are met.
- Using County-approved forms (Exhibit C or substitute forms approved by County), provide monthly reports of TAP activities and outcomes to include outreach activities, number of applicants contacted, applicants screened, telephone call logs, technical assistance delivered and program graduates.
- Establish and maintain complete TAP files to allow monitoring of the program by State and/or County staff or auditors.
- Maintain confidentiality of all applicant files.

### **ARTICLE I**

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire on March 31, 2013. Prior to termination of this Agreement, Consultant shall ensure orderly transition of files, including status of follow-up items, to the County.

### **ARTICLE II**

**Compensation for Services:** For services provided herein, County agrees to pay Consultant in arrears and within thirty (30) days following County's receipt and approval of itemized invoice(s) identifying services rendered and, where appropriate, individuals served. Payment shall be made to Consultant at the address provided under Article XXII, unless otherwise notified in writing by Consultant on Consultant's official letterhead. All invoices for TAP services must be received by County by March 5, 2013. County agrees to reimburse Consultant for travel expenses in accordance with Exhibit D, Board of Supervisors Travel Policy D-1, incorporated herein and made by reference a part hereof. The total amount of this Agreement shall not exceed \$84,370, as detailed in Exhibit E, Cost Proposal, incorporated herein and made by reference a part hereof.

Consultant shall invoice county in accordance with hourly rates and categories outlined in Exhibit E and the successful completion and acceptance by County of the following deliverables:

1. Consultant shall invoice County in the amount of \$6,000 for each 12-week workshop series in the maximum sum of \$500 per workshop provided the following criteria is met:
  - a) each workshop shall be a minimum of three hours in length and held one day per week over a consecutive 12-week period;
  - b) a minimum of eight CDBG-eligible individuals shall participate in each workshop, unless a lower number is agreed upon in writing in advance by the County;
  - c) a minimum of four persons shall graduate from each workshop series, unless a lower number is agreed upon in writing in advance by the County; and
  - d) successful completion and acceptance by County of each series.

If less than the required number of CDBG-eligible individuals participate in and graduate from the workshops without prior written authorization from the County, payment for the series shall

If less than the required number of CDBG-eligible individuals participate in and graduate from the workshops without prior written authorization from the County, payment for the series shall be prorated based on the number of graduates. Consultant shall provide a copy of the sign-in sheet for each workshop with each invoice submitted.

2. Consultant shall invoice County monthly in arrears for one-on-one consulting services provided to individuals. Consultant shall provide a minimum of 10 hours of one-on-one consulting to each workshop participant. One-on-one consulting in excess of 10 hours per individual must be approved in writing by County in advance. A maximum of 470 hours of consulting services shall be provided under this Agreement, at an hourly rate of \$100 and for a maximum Agreement total of \$47,000. Invoices shall be itemized with the information specified on the sample forms in Exhibit C for each client.

3. Consultant shall invoice County monthly in arrears for business support services provided to CDBG microenterprise-eligible individuals. Invoices shall be itemized with the client names, a brief description of services provided and consulting hours charged for each client. Business support clients may receive up to 10 hours of one-on-one consulting, or more hours upon written authorization in advance from County. A maximum of 100 hours of business support services shall be provided under this Agreement, at an hourly rate of \$100 and for a maximum Agreement total of \$10,000. Invoices shall be itemized with the information specified on the sample forms in Exhibit C for each client.

4. Consultant shall invoice County for Activity Delivery costs in an amount not to exceed 11.16 percent of the actual costs invoiced for the TAP workshops, one-on-one consulting and business support services, up to a maximum of \$8,370. Under the CDBG grant agreement, this amount can only be invoiced concurrent with and/or after the program delivery. Consultant shall invoice according to CDBG requirements for Activity Delivery costs. Invoices shall be itemized with the information specified on the sample forms in Exhibit C for each activity.

5. Consultant may invoice County monthly in arrears for General Administration and Reporting activities related to the TAP in a total amount not to exceed \$1,000 over the term of this Agreement. Invoices shall be itemized with the information specified on the sample forms in Exhibit C for each activity.

#### **ARTICLE IV**

**Special Terms and Conditions:** Consultant understands, acknowledges and agrees to the terms and conditions of the CDBG Standard Agreement 09-EDEF-6547, inclusive of all exhibits and attachments, which are incorporated into this Agreement by reference and made part hereof.

#### **ARTICLE V**

**Patent and Copyrights:** Consultant, or its subcontractors, may deliver materials to County under this Agreement. Materials include, but are not limited to programs tools, worksheets, documentation and reports. Consultant, or its subcontractors, retains title, including ownership or copyright, to all

materials. However, Consultant grants County the right to make necessary copies of materials only for their intended use. Such copies are subject to the provisions of the Copyright Laws of the United States. Consultant does not grant the right to redistribute materials under any condition.

#### **ARTICLE VI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE VII**

**Consultant to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from Consultant and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to County and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to County during term hereof.

#### **ARTICLE VIII**

**Assignment and Delegation:** Consultant is engaged by County for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

#### **ARTICLE IX**

**Independent Consultant/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees. Consultant, and the agents and employees of Consultant, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of County.

## **ARTICLE X**

**Accounting Systems and Financial Records:** Consultant shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County and any other local or private organizations. Consultant's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 45 Code of Federal Regulations (CFR), Part 92, and all current revisions of OMB Circular A-122. More particularly, Consultant is responsible for complying with OMB Circular A-122 and 28 CFR, Part 92, and the allowability of the costs covered therein. Consultant must obtain written approval from the County's Health and Human Services Agency (HHS) Executive Management, or successor, prior to the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of OMB Circular A-122. In order to obtain the most current regulations, Consultant should consult not only the latest version of the CFR, but also the List of (CFR) Sections Affected (LSA) issued in the current month. The *Federal Register* home page (<http://www.gpoaccess.gov/nara/index.html>) offers links to both the *Federal Register* and the CFR. An electronic CFR (e-CFR) is available at <http://www.gpoaccess.gov/ecfr/>. The e-CFR is an unofficial editorial compilation of CFR material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR. Please note that on-line versions of the CFR may not be the most current available.

## **ARTICLE XI**

**Annual Audit:** Pursuant to the Single Audit Act and the Office of Management and Budget (OMB) Circular A-133, any entity that receives a total of \$500,000 or more per year in federal funds for the purposes of carrying out federal programs must complete an annual audit. The funding threshold is aggregate funds from all sources. If the Consultant is subject to this requirement, Consultant shall mail a certified copy of said completed annual audit to HHS at the address listed in Article XXII, Notice to Parties, within thirty (30) days of Consultant's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the HHS address listed in agreement's Article XXII, Notice to Parties. A complete and current copy of OMB A-133 is available at: <http://www.whitehouse.gov/omb/rewrite/circulars/a133/a133.html>.

## **ARTICLE XII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business,

County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of County, this Agreement may be deemed to be cancelled in its entirety subject to payment for services performed prior to cancellation.

### **ARTICLE XIII**

**Availability of Funds:** This Agreement is valid and enforceable only if sufficient funds are made available to the States by the United States government and those funds are released by the State to County for services to be provided under this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms or funding of this Agreement in any manner.

County's obligation for payment of any Agreement beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability on the part of County shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.

### **ARTICLE XIV**

**Non-Discrimination:** During the performance of this Agreement, Consultant and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, medical condition (cancer), age, (over 40), marital status, and denial of family care leave. Consultant shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.

Consultant shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.) The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set



forth in full. Consultant shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

Consultant shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

#### **ARTICLE XV**

**Disputes:** Consultant shall continue with responsibilities under this Agreement during any dispute.

#### **ARTICLE XVI**

**Lobbying Certification:** Consultant, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federally-appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Consultant shall complete and submit Standard Form SF-LLL, OMB Number 0348-0046 "Disclosure of Lobbying Activities" in accordance with its instructions. A copy of Form SF-LLL can be downloaded and completed at <http://www.whitehouse.gov/omb/grants/sfillin.pdf>.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **ARTICLE XVII**

**Confidentiality and Information Security Provisions:** Consultant shall comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR 45, parts 160-164, regarding the confidentiality and security of personal identifiable information (PII).

Personal identifiable information (PII) means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, or any other financial information.

A. Permitted Uses and Disclosures of PII by Consultant.

- (1) Permitted Uses and Disclosures. Consultant shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical and physical safeguards appropriate to the size and complexity of Consultant's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Consultant, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate federal or State laws or regulations.
- (2) Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Consultant shall:
  - (a) Use and disclose PII for the proper management and administration of Consultant or to carry out the legal responsibilities of Consultant, provided that such use and disclosures are permitted by law; and
  - (b) Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information which is no longer to be retained by Consultant by (1) shredding, (2) erasing or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

B. Responsibilities of Consultant.

- (1) Consultant agrees to safeguards:
  - (a) To prevent use or disclosure of PII other than as provided for by this Agreement. Consultant shall provide County with information concerning such safeguards as County may reasonably request from time to time; and
  - (b) Consultant shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
  - (c) Consultant shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Consultant shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.

- (2) Consultant shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
  - (a) Network based firewall and/or personal firewall; and
  - (b) Continuously updated anti-virus software; and
  - (c) Patch-management process including installation of all operating system/software vendor security patches.
- (3) Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to Consultant of a use or disclosure of PII by Consultant or its subcontractors in violation of the requirements of this Agreement.
- (4) Agents and Subcontractors of Consultant. To ensure that any agent, including a subcontractor to which Consultant provides PII received from County, or created or received by Consultant, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to Consultant with respect to such information.
- (5) Notification of Electronic Breach or Improper Disclosure. During the term of this Agreement, Consultant shall notify County immediately upon discovery of any breach of PII and/or data, where the information and/or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to County Privacy Officer, within two business days of discovery, at (530) 621-5852. Consultant shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable federal and State laws and regulations. Consultant shall investigate such breach and provide a written report of the investigation to County Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

## **ARTICLE XVIII**

**HIPAA Compliance:** All data, together with any knowledge otherwise acquired by Consultant during the performance of services provided pursuant to this Agreement, shall be treated by Consultant and Consultant's staff as confidential information. Consultant shall not disclose or use, directly or indirectly, at any time any such confidential information. If Consultant receives any individually identifiable health information ("Protected Health Information" or "PHI"), Consultant shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

## **ARTICLE XIX**

### **Default, Termination and Cancellation:**

- A. Default: Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the

party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. Bankruptcy: This Agreement, at the option of County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement in the event Consultant ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement in whole or in part seven (7) calendar days upon written notice by County for any reason. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

## **ARTICLE XX**

**Compliance with all Federal, State and Local Laws and Regulations:** Consultant shall comply with all federal, State and local laws, including but not limited to the Americans with Disabilities Act (ADA) of 1990 (42 USC 12101 et seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Consultant shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Consultant from the County Health and Human Services Agency.

Consultant shall comply with applicable Uniform Administrative Requirements as described in 24 CFR Section 570.502, including Sections of 24 CFR Part 85 cited therein.

Consultant shall further comply with all applicable laws relating to wages and hours of employment and occupational safety, and to fire, safety and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Consultant further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado and all other appropriate governmental agencies, and shall maintain these throughout the term of the Agreement.

## **ARTICLE XXI**

**Debarment and Suspension Certification:** By signing this agreement, Consultant agrees to comply with applicable federal suspension and debarment regulations and Consultant further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the agreement:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three-year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
- D. Have not within a three-year period preceding this Agreement had one or more public transactions (federal, State or local) terminated for cause or default;
- E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
- F. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions.

The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

## **ARTICLE XXII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

COUNTY OF EL DORADO  
HEALTH AND HUMAN SERVICES AGENCY  
3057 BRIW ROAD, SUITE A  
PLACERVILLE, CA 95667  
ATTN: HCED

or to such other location as County directs.

With a copy to:

COUNTY OF EL DORADO  
CHIEF ADMINISTRATIVE OFFICE  
PROCUREMENT AND CONTRACTS DIVISION  
360 FAIR LANE  
PLACERVILLE, CA 95667  
ATTN: TERRI DALY, PURCHASING AGENT

Notices to Consultant shall be addressed as follows:

LOS RIOS COMMUNITY COLLEGE DISTRICT  
NORTHEASTERN CALIFORNIA SMALL BUSINESS DEVELOPMENT CENTER  
1410 ETHAN WAY  
SACRAMENTO, CA 95825-2205  
ATTN: PANDA MORGAN

or to such other location as Consultant directs.

### **ARTICLE XXIII**

**Indemnity:** Each party to this agreement (including its trustees, officers, agents, employees or volunteers (collectively Indemnitor) shall defend, indemnify, and hold harmless the other party, its trustees, officers, agents, employees or volunteers (collectively Indemnatee), from any and all claims, demands, damages, expenses, attorneys' fees, property damage, personal injuries or death, arising out of the Indemnitor's negligence, recklessness, or intentional acts or omissions in connection with the Agreement. Where both parties are at fault, the parties intend for the principles of comparative fault be applied to this indemnity obligation.

### **ARTICLE XXIV**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to the El Dorado County Risk Manager and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California. Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by Consultant in performing the grant activity(ies) or any part of it.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Consultant shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event the Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions (including an endorsement page for the "additional insured" language) stating that:
  - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
  - 2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Consultant's insurance coverage shall be primary insurance as respects County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees or volunteers shall be in excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees and volunteers; or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of the County.

#### **ARTICLE XXV**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### **ARTICLE XXVI**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

#### **ARTICLE XXVII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public office or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation."



### **ARTICLE XXVIII**

**California Residency (Form 590):** If Consultant is a California resident, Consultant must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. Consultant will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

### **ARTICLE XXIX**

**Nonresident Withholding:** If Consultant is not a California resident, Consultant shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Consultant shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

### **ARTICLE XXX**

**Access to Records and Retention:** Consultant shall provide access to the federal, State, County or Controller General of the United States, or any of their duly authorized representatives, upon reasonable notice, to any books, accounts, documents, papers, and records of Consultant which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, transcriptions or monitoring.

Consultant shall retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of five (5) years from date of termination of this Agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.

The County may inspect any grant activity performed by Consultant to ensure that the grant activity(ies) is being and has been performed in accordance with the applicable federal, State and/or local requirements and this Agreement. The County shall withhold payment to Consultant if grant activity(ies) are found by such inspection not to conform with the applicable requirements, until so corrected.

### **ARTICLE XXXI**

**Taxpayer Identification Number (Form W-9):** All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

**ARTICLE XXXII**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

**ARTICLE XXXIII**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Ren Scammon, Administrative Services Officer, Health and Human Services Agency, or successor.

**ARTICLE XXXIV**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

**ARTICLE XXXV**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

**ARTICLE XXXVI**

**Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

**ARTICLE XXXVII**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By: Ren Scammon Dated: 9/19/12  
**Ren Scammon, Administrative Services Officer**  
**Health and Human Services Agency**

**Requesting Department Head Concurrence:**

By: Daniel Nielson Dated: 9-20-2012  
**Daniel Nielson, M.P.A., Director**  
**Health and Human Services Agency**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below.

-- COUNTY OF EL DORADO --

By: \_\_\_\_\_  
**John R. Knight, Chair**  
**Board of Supervisors**  
**County of El Dorado**

Dated: \_\_\_\_\_

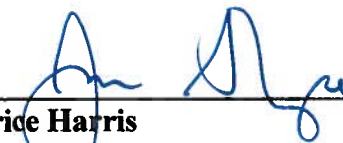
**ATTEST:**  
**Terri Daly**  
**Acting Clerk of the Board of Supervisors**

By: \_\_\_\_\_  
**Deputy Clerk**

Dated: \_\_\_\_\_

-- CONSULTANT --

**LOS RIOS COMMUNITY COLLEGE DISTRICT**  
**NORTHEASTERN CALIFORNIA SMALL BUSINESS DEVELOPMENT CENTER**

By:  \_\_\_\_\_  
**Brice Harris**  
**Chancellor**  
**"Consultant"**

Dated: 9/28/12

## **LIST OF EXHIBITS**

- EXHIBIT A      CDBG Standard Agreement 09-EDEF-6547, including County Application
- EXHIBIT B      El Dorado County Microenterprise Assistance Program Guidelines
- EXHIBIT C      Sample Forms
- EXHIBIT D      Board of Supervisors Travel Policy D-1
- EXHIBIT E      Cost Proposal